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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,585	06/26/2001	Kent F. Hayes JR.	RSW920010088US1	2282

7590 10/05/2004

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EXAMINER

TO, JENNIFER N

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/892,585	<b>Applicant(s)</b> HAYES, KENT F.	
	<b>Examiner</b> Waylon Wang	<b>Art Unit</b> 2127	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-21 are presented for examination.

#### ***Claim objections***

2. Claim 9 is objected to because of the following informalities:

There are two periods at the end of this claim. Appropriate correction is required.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al (U.S. Patent 5,701,482), and in view of Douceur et al (U.S. Patent 6,247,061).

4. As per claim 1, Harrison et al teach the invention comprising the method steps of:

determining whether a requester of a resource distribution job should receive the requested resource distribution job (col. 8, lines 59-61; lines 66-67 and col. 9, lines 1-4); and

distributing the requested resource distribution job to the requester if the requested resource distribution job is available (col. 9, lines 5-7).

5. Harrison et al teach that there are many different factors to determine whether a job is available to the requester (col. 9, lines 2 – 4). However, Harrison et al fail to teach the computation of an earliest time as a factor for such determination

6. Douceur et al teach the method to compute the earliest time at which a requested job may be sent to the requester (col. 3, lines 15-19).

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Harrison et al and Douceur et al because they both teach the selectively dispatching of a requested job to a requester and Douceur's teaching of computation of earliest time as a factor for dispatching would ensure the causality of Harrison et al's system by dispatching the requested job only when it is time to be dispatched.

8. As per claims 2 – 14, 17, 18, and 21, Harrison et al and Douceur et al did not specifically teach the claimed factors to determine whether the requested job should be

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dispatched. It would have been obvious to one of ordinary skill in the art that, as explicitly taught by Harrison et al, to use different factors [col. 9, lines 2 – 4] including the claimed factors for job dispatching determination because it would allow the system to have greater flexibility in control job dispatching.

9. As per claims 15 – 16, Harrison et al and Douceur et al teach the method of job scheduling for the same reason as set forth hereinabove.

10. As per claims 19 and 20, Harrison et al and Douceur et al together teach the method of distributing requested resource distribution job. Therefore, they together teach the system and computer program product for implemented the method

### **Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. patent document of 'Method and Apparatus for Preventing Overloading of the Central Controller of A Telecommunication System' by Schoute et al in Feb., 1985, mentioned a method to prevent central control from overloaded by rapidly detecting an imminent overload.

U.S. patent document of 'Electronic Type Engine Control Method and Apparatus' by Furuhashi in Jun, 1982, indicated a process for controlling an internal combustion

engine employed engine controlling programs to be executed by a central processing unit classified into a number of task programs in accordance with processing functions of the CPU.

European Patent application of 'Thread based governor for time scheduled process execution' by Roy H. Williams in Jan., 1999, indicated a thread based scheduling governor to prevent system resource overload to improve efficiency and performance.

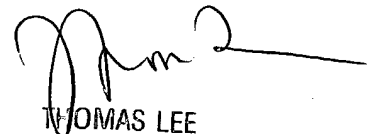
The publication of 'Scheduling an Overloaded Real-time System' by Hwang et al, IEEE, p. 22-28, 1996, showed how the scheduling problem for a real-time system which is overloaded was studied and how a two step process was presented for generating a schedule.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Waylon Wang whose telephone number is (703) 605-4320 or new telephone number (571) 272-3775 effective 10/15/2004. The examiner can normally be reached on Monday-Thursday from 8:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (703) 305-9678 or (571) 272-3756 effective 10/15/2004. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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